

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO: 2:06cr233-MHT
)	
JOHN DOE, a/k/a)	
ALFREDO RIOS, a/k/a)	
ALFREDO RIOS PEREZ, a/k/a)	
ALFREDO RODRIQUEZ RIOS, a/k/a)	
ALFREDO RODRIQUEZ, a/k/a)	
OBED RIVERA)	

MOTION TO CONTINUE SENTENCING

COMES NOW the Defendant, by and through undersigned counsel, Michael J. Petersen, and requests that the sentencing in the above styled case be generally continued, and as grounds states the following:

1. On September 11, 2007, the government filed a Motion to Continue Sentencing asserting that “[t]he government has reason to believe that additional information will become available which may impact the defendant’s presentence investigative report and sentence.
2. On September 13, 2007, this Court reset the sentencing in this case to December 3, 2007.
3. On September 14, 2007, the Defendant was charged by indictment in the Middle District of Alabama in Case No. 2:07-CR-205-MHT.
4. This four count indictment alleged in Count 1 that the Defendant on or about June 15, 2007 knowingly and willfully made materially false, fictitious, and fraudulent statements to a member of an agency of the United States Government in violation of 18 U.S.C. §1001(a)(2). In Count 2, the government alleged the Defendant on or about June 15, 2007 violated 42 USC

§408(a)(7)(b) by knowingly and with intent to deceive, falsely represented a Social Security account number as his when it had not been assigned to him. In Count 3, the government alleged the Defendant on or about June 15, 2007 knowingly transferred, possessed, and used without lawful authority, the name and social security number of another, during and in relation to felony offenses, that is Making a False Statement and Social Security Fraud, in violation of 18 U.S.C. §1028(a)(1). In Count 4, the government alleged that the Defendant, on or about June 27, 2007, after taking an oath before a United States Magistrate Judge, willfully and contrary to the oath, make a false statement in violation of 18 U.S.C. §1621(1).

5. The Court has set Case Number 2:07-CR-205-MHT for trial during the trial term commencing December 10, 2007 at 10:00 a.m. before United States District Judge Myron H. Thompson.

6. Sentencing of the Defendant in Case Number 2:06-CR-233-MHT is set for December 3, 2007, at 10:00 a.m. before United States District Judge Myron H. Thompson.

7. The Defendant requests this Court generally continue the sentencing hearing in Case Number 2:06-CR-233-MHT until such time as Case Number 2:07-CR-205-MHT is resolved either through plea or trial.

8. Until the allegations in Case Number 2:07-CR-205-MHT are resolved, any statement the Defendant may make in the course of the sentencing hearing in the instant matter could, and undoubtedly would, result in additional charges being brought by the government.

9. Counsel for the Defendant has contacted counsel for the government, Tommie B. Hardwick and the government does not oppose a continuance.

10. While requests for a continuance are addressed to the sound discretion of the trial court, *United States v. Darby*, 744 F.2d 1508, 1521(11th Cir. 1984), *reh'g denied* 749 F.2d 733, *cert.*

denied, 471 U.S. 1100 (1985), undersigned counsel feels that, in this case, the ends of justice will be served by allowing the Defendant to resolve Case Number 2:07-CR-205-MHT before being sentenced as to Case Number 2:06-CR-233-MHT.

WHEREFORE, for the reasons set forth above, the Defendant moves this Court to issue an Order continuing generally the December 3, 2007, sentencing hearing until such time as Case Number 2:07-CR-205-MHT is resolved either at trial or through plea and, then, if necessary, is also set for sentencing.

Dated this 6th day of November 2007.

Respectfully submitted,

s/ Michael J. Petersen
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ASB-5072-E48M

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CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Tommie Brown Hardwick, AUSA.

Respectfully submitted,

s/ Michael J. Petersen
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